

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BROCADE COMMUNICATIONS SYSTEMS,)
INC., a Delaware corporation, and FOUNDRY)
NETWORKS, LLC, a Delaware limited liability)
company,)

Plaintiffs,)

v.)

A10 NETWORKS, INC., a California)
corporation, LEE CHEN, an individual,)
RAJKUMAR JALAN, an individual, RON)
SZETO, an individual, LIANG HAN, an)
individual, STEVEN HWANG, an individual,)
and DAVID CHEUNG, an individual,)

Defendants.)

Case No.: 10-CV-03428-LHK

MINUTE ORDER; CASE
MANAGEMENT ORDER; AND ORDER
RELATING CASE

Clerk: Martha Parker Brown
Reporter: Lee-Anne Shortridge
Length of hearing: 2hr 49min

Plaintiff Attorneys: Denise Mingrone, Fabio Marino, Annette
Hurst
Defendant Attorneys: Scott Mosko, David Martens, Ann
Liroff (for David Cheung), Mark Meyer (for Liang Han)

A case management conference was held on: November 29, 2011 at 2:00 p.m. A further case management conference is set for Wednesday, February 15, 2012 at 2:00 p.m.

MOTION TO RELATE: Brocade has filed an Administrative Motion to Consider Whether Cases Should Be Related, stating that the following cases may be related within the meaning of Civil L.R. 3-12:

11-CV-05493-WHA A10 Networks, Inc. v. Brocade Communications Systems, Inc.

10-CV-03428-LHK Brocade Communications Systems, Inc., et al. v. A10 Networks, Inc., et al.

On the basis of the motion pleadings and oral argument, as the Judge assigned to the earliest filed case, I find that the cases are related as defined by Civil L.R. 3-12(a). Counsel are instructed that all future filings in the reassigned case are to bear the initials **LHK** immediately after the case number. Any case management conference in the reassigned case will be rescheduled by the Court. Any date for hearing a noticed motion is vacated, and any motion must be re-noticed by the moving party to be heard before the undersigned; any deadlines set by the ADR Local Rules remain in effect; and any deadlines established in a case management order continue to govern, except dates for any appearance in court, which will be rescheduled by the undersigned.

MEETING BETWEEN PARTIES: A10's Lee Chen, and Brocade's Ken Cheng were ordered to meet in person at 2:00 p.m. in the Court's jury room on December 13, 2011 to explore case resolution. The meeting shall be considered a private and confidential settlement discussion. Prior to that time, attorneys for both A10 and Brocade shall advise Messrs. Chen & Cheng the extent of the projected costs and time estimates of proceeding through trial and appeal on both this matter, and the related matter discussed above.

Case No.: 10-CV-03428-LHK

MINUTE ORDER; CASE MANAGEMENT ORDER; AND ORDER RELATING CASE

A10'S MOTION TO COMPEL INTERROGATORY RESPONSES: The parties agreed to the following compromise regarding A10's motion to compel interrogatory responses. A10 will send a letter to Brocade identifying the deficiencies Brocade's responses to interrogatories #1-3 by December 2, 2011. By December 15, 2011, Brocade will provide supplementary responses to interrogatory #3. By January 15, 2012, Brocade will provide supplementary responses to interrogatories #1 and #2.

BROCADE'S MOTION TO COMPEL 30(b)(6) DEPOSITION is GRANTED, in part, for the reasons stated on the record. By December 13, 2011, A10 will produce 30(b)(6) deponents to testify regarding categories one through three as identified on the record. By January 15, 2012, A10 will produce a 30(b)(6) deponent to testify regarding third party source code files.

MOTIONS TO COMPEL RELATED TO PROTECTIVE ORDER are DENIED as moot for the reasons stated on the record.

OTHER PENDING DISCOVERY MOTIONS: As agreed on the record, all other pending motions to compel are withdrawn by the parties.

A10'S DEPOSITION OF BROCADE WITNESS: Brocade was ordered to produce its witness for deposition in response to A10's October 2011 Notice of Deposition no later than December 6. A10's request for sanctions is DENIED for the reasons stated on the record. Brocade must produce its witness for deposition on third party source code files no later than January 15, 2012.

BROCADE'S REQUEST FOR CUSTODIAL DATA is DENIED for the reasons stated on the record.

DEFENDANT CHEUNG'S DISCOVERY REQUEST: Brocade agreed to allow David Cheung to access documents designated as Highly Confidential – Attorney's Eyes Only that Brocade has identified in response to Mr. Cheung's discovery requests in order for Mr. Cheung to defend himself in this lawsuit. Brocade shall file a stipulation memorializing this agreement by November 30.

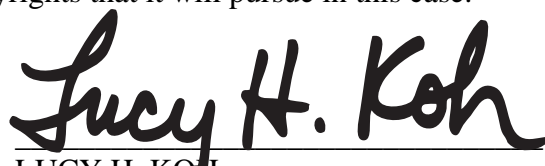
WITHDRAWAL OF SUMMARY JUDGMENT MOTIONS: Brocade shall file a stipulation withdrawing, without prejudice, its motion for summary judgment of infringement of United States Patents 7,454,500; 7,581,009; 7,657,629; 7,584,301; 7,840,678 and withdrawing, without prejudice, a portion of its argument from Brocade's motion for summary judgment on non-infringement of A10's United States Patent 5,875,185 on November 29, 2011; and a stipulation regarding the motion for summary judgment on assignor estoppel by November 30, 2011. The Court deferred ruling on whether to strike all or parts of A10's motion for summary judgment of non-infringement on Brocade's United States Patents 7,637,427 and 7,716,370 until the summary judgment ruling.

IN PERSON MEET AND CONFER: The parties shall meet on December 20 at 10:00 a.m. in courtroom 8, 4th floor to meet and confer regarding any pending case management issues. Counsel wishing to join in the conference telephonically shall file a statement indicating so by December 13, 2011, and providing a contact telephone number.

NARROWING BROCADE'S CASE: By December 15, 2011 Brocade will identify the 20 copyrights that it will pursue in this case. By January 31, 2012 Brocade will identify the (1) 20 trade secrets, (2) 10 patent claims, and (3) five copyrights that it will pursue in this case.

IT IS SO ORDERED.

Dated: November 30, 2011


LUCY H. KOH
United States District Judge